

1 **REDEVELOPMENT AGENCY FINANCING**

2 **REQUIREMENTS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Richard L. Walsh**

6 AN ACT RELATING TO SPECIAL DISTRICTS; MODIFYING DEFINITIONS RELATING TO
7 TAX INCREMENT; LIMITING TAX INCREMENT TO THE EXCESS TAXES GENERATED
8 BY THE COUNTY OR MUNICIPALITY THAT CREATED THE REDEVELOPMENT
9 AGENCY; AND MAKING TECHNICAL CHANGES.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **17A-2-1202**, as last amended by Chapter 320, Laws of Utah 1995

13 **17A-2-1247.5**, as last amended by Chapters 21 and 194, Laws of Utah 1999

14 *Be it enacted by the Legislature of the state of Utah:*

15 Section 1. Section **17A-2-1202** is amended to read:

16 **17A-2-1202. Definitions.**

17 As used in this part:

18 (1) "Agency" means the legislative body of a community when designated by the
19 legislative body itself to act as a redevelopment agency.

20 (2) (a) "Base tax amount" means that portion of taxes that would be produced by the rate
21 upon which the tax is levied each year [~~by or for all taxing agencies~~] upon the total sum of the
22 taxable value of the taxable property in a redevelopment project area by or for:

23 (i) for a redevelopment plan adopted before May 1, 2000, all taxing agencies; or

24 (ii) for a redevelopment plan adopted on or after May 1, 2000, the community that created
25 the agency.

26 (b) For purposes of Subsection (2)(b), the taxable value of the taxable property in a
27 redevelopment project area shall be as shown upon the assessment roll used in connection with the

28 taxation of the property by the applicable taxing agencies, last equalized before the effective date
29 of the:

30 [(a)] (i) ordinance approving the plan for projects for which a preliminary plan has been
31 prepared prior to April 1, 1993, and for which all of the following have occurred prior to July 1,
32 1993: the agency blight study has been completed, and a hearing under Section 17A-2-1221 has
33 in good faith been commenced by the agency; or

34 [(b)] (ii) the first approved project area budget for projects for which a preliminary plan
35 has been prepared after April 1, 1993, and for which any of the following have occurred after July
36 1, 1993: the completion of the agency blight study, and the good faith commencement of the
37 hearing by the agency under Section 17A-2-1221; and

38 [(c)] (iii) as adjusted by Sections 17A-2-1250.5, 17A-2-1251, 17A-2-1252, and
39 17A-2-1253.

40 (3) "Blighted area" or "blight" means:

41 (a) for projects for which a preliminary plan has been prepared prior to April 1, 1993, and
42 for which all of the following have occurred prior to July 1, 1993: the agency blight study has been
43 completed, and a hearing under Section 17A-2-1221 has in good faith been commenced by the
44 agency, an area used or intended to be used for residential, commercial, industrial, or other
45 purposes or any combination of such uses which is characterized by two or more of the following
46 factors:

47 (i) defective design and character of physical construction;

48 (ii) faulty interior arrangement and exterior spacing;

49 (iii) high density of population and overcrowding;

50 (iv) inadequate provision for ventilation, light, sanitation, open spaces, and recreation
51 facilities;

52 (v) age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses;

53 (vi) economic dislocation, deterioration, or disuse, resulting from faulty planning;

54 (vii) subdividing and sale of lots of irregular form and shape and inadequate size for proper
55 usefulness and development;

56 (viii) laying out of lots in disregard of the contours and other physical characteristics of
57 the ground and surrounding conditions;

58 (ix) existence of inadequate streets, open spaces, and utilities; and

59 (x) existence of lots or other areas which are subject to being submerged by water.

60 (b) For projects for which a preliminary plan has been prepared after April 1, 1993, and
61 for which any of the following have occurred after July 1, 1993: the completion of the agency
62 blight study, and the good faith commencement of the hearing by the agency under Section
63 17A-2-1221, when a finding of blight is required, an area with buildings or improvements, used
64 or intended to be used for residential, commercial, industrial, or other urban purposes or any
65 combination of these uses, which:

66 (i) contains buildings and improvements, not including out-buildings, on at least 50% of
67 the number of parcels and the area of those parcels is at least 50% of the project area; and

68 (ii) is unfit or unsafe to occupy or may be conducive to ill health, transmission of disease,
69 infant mortality, juvenile delinquency, or crime because of any three or more of the following
70 factors:

71 (A) defective character of physical construction;

72 (B) high density of population and overcrowding;

73 (C) inadequate provision for ventilation, light, sanitation, and open spaces;

74 (D) mixed character and shifting of uses which results in obsolescence, deterioration, or
75 dilapidation;

76 (E) economic deterioration or continued disuse;

77 (F) lots of irregular form and shape and inadequate size for proper usefulness and
78 development, or laying out of lots in disregard of the contours and other physical characteristics
79 of the ground and surrounding conditions;

80 (G) existence of inadequate streets, open spaces, and utilities;

81 (H) existence of lots or other areas which are subject to being submerged by water; and

82 (I) existence of any hazardous or solid waste defined as any substance defined, regulated,
83 or listed as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste,"
84 "pollutant," "contaminant," or "toxic substances," or identified as hazardous to human health or
85 the environment under state or federal law or regulation.

86 (c) For purposes of Subsection (3)(b), if a developer involved in the project area
87 redevelopment or economic development causes any of the factors of blight listed in Subsection
88 (b)(ii), the developer-caused blight may not be used as one of the three required elements of blight.
89 Notwithstanding the provisions of this section, any blight caused by owners or tenants who may

90 become developers under the provisions of Section 17A-2-1214 shall not be subject to this
91 Subsection (3)(c).

92 (4) "Bond" means any bonds, notes, interim certificates, debentures, or other obligations
93 issued by an agency.

94 (5) "Community" means a city, county, town, or any combination of these.

95 (6) "Economic development" means the planning or replanning, design or redesign,
96 development or redevelopment, construction or reconstruction, rehabilitation, business relocation
97 or any combination of these, within all or part of a project area and the provision of office,
98 industrial, manufacturing, warehousing, distribution, parking, public or other facilities, or
99 improvements as may benefit the state or the community in order for a public or private employer
100 to create additional jobs within the state.

101 (7) "Federal government" means the United States or any of its agencies or
102 instrumentalities.

103 (8) "Legislative body" means the city council, city commission, county legislative body,
104 or other legislative body of the community.

105 (9) "Planning commission" means a city, town, or county planning commission established
106 pursuant to law or charter.

107 (10) "Project area" or "redevelopment project area" means an area of a community within
108 a designated redevelopment survey area, the redevelopment of which is necessary to eliminate
109 blight or provide economic development and which is selected by the redevelopment agency
110 pursuant to this part.

111 (11) "Project area budget" means, for projects for which a preliminary plan has been
112 prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993:
113 the completion of the agency blight study, and the good faith commencement of the hearing by the
114 agency under Section 17A-2-1221, a multiyear budget for the redevelopment plan prepared by the
115 redevelopment agency showing:

116 (a) the base year taxable value of the project area;

117 (b) the projected tax increment of the project area, including the amount of any tax
118 increment shared with other taxing districts which shall include:

119 (i) the tax increment expected to be used to implement the redevelopment plan including
120 the estimated amount of tax increment to be used for land acquisition, public, and infrastructure

121 improvements, and loans, grants, or tax incentives to private and public entities; and

122 (ii) the total principal amount of bonds expected to be issued by the redevelopment agency
123 to finance the project;

124 (c) the tax increment expected to be used to cover the cost of administering the project area
125 plan;

126 (d) a legal description for the portion of the project area from which tax increment will be
127 collected pursuant to Section 17A-2-1247.5, if the area from which tax increment is to be collected
128 is less than the entire project area; and

129 (e) for properties to be sold, the expected total cost of the property to the agency and the
130 expected sales price to be paid by the purchaser.

131 (12) "Public body" means the state, or any city, county, district, authority, or any other
132 subdivision or public body of the state, their agencies, instrumentalities, or political subdivisions.

133 (13) (a) "Redevelopment" means the planning, development, replanning, redesign,
134 clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a project
135 area, and the provision of residential, commercial, industrial, public, or other structures or spaces
136 that are appropriate or necessary to eliminate blight in the interest of the general welfare, including
137 recreational and other facilities incidental or appurtenant to them.

138 (b) "Redevelopment" includes:

139 (i) the alteration, improvement, modernization, reconstruction, or rehabilitation, or any
140 combination of these, of existing structures in a project area;

141 (ii) provision for open space types of use, such as streets and other public grounds and
142 space around buildings, and public or private buildings, structures and improvements, and
143 improvements of public or private recreation areas and other public grounds; and

144 (iii) the replanning or redesign or original development of undeveloped areas as to which
145 either of the following conditions exist:

146 (A) the areas are stagnant or improperly utilized because of defective or inadequate street
147 layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes;
148 or

149 (B) the areas require replanning and land assembly for reclamation or development in the
150 interest of the general welfare.

151 (14) "Redevelopment plan" means a plan developed by the agency and adopted by

152 ordinance of the governing body of a community to guide and control redevelopment and
153 economic development undertakings in a specific project area.

154 (15) "Redevelopment survey area" or "survey area" means an area of a community
155 designated by resolution of the legislative body or the governing body of the agency for study by
156 the agency to determine if blight exists if redevelopment is planned, and if a redevelopment or
157 economic development project or projects within the area are feasible.

158 (16) "Taxes" include all levies on an ad valorem basis upon land, real property, personal
159 property, or any other property, tangible or intangible.

160 (17) "Taxing agencies" mean the public entities, including the state, any city, county, city
161 and county, any school district, special district, or other public corporation, which levy property
162 taxes within the project area.

163 (18) "Tax increment" means:

164 (a) for a redevelopment plan adopted before May 1, 2000, that portion of the levied taxes
165 each year in excess of the base tax amount which excess amount is to be paid into a special fund
166 of an agency; or

167 (b) for a redevelopment plan adopted on or after May 1, 2000, that portion of the taxes
168 levied each year by the community that created the agency, in excess of the base tax amount, which
169 excess amount is to be paid into a special fund of an agency.

170 Section 2. Section **17A-2-1247.5** is amended to read:

171 **17A-2-1247.5. Tax increment financing -- Project area budget approval -- Payment**
172 **of additional tax increment.**

173 (1) This section applies to projects for which a preliminary plan has been adopted on or
174 after July 1, 1993.

175 (2) (a) A taxing agency committee shall be created for each redevelopment or economic
176 development project the redevelopment plan for which was adopted before May 1, 2000. The
177 committee membership shall be selected as follows:

178 (i) two representatives appointed by the school district in the project area;

179 (ii) two representatives appointed by resolution of the county commission or county
180 council for the county in which the project area is located;

181 (iii) two representatives appointed by resolution of the city or town's legislative body in
182 which the project area is located if the project is located within a city or town;

183 (iv) a representative approved by the State School Board; and

184 (v) one representative who shall represent all of the remaining governing bodies of the
185 other local taxing agencies that levy taxes upon the property within the proposed project area. The
186 representative shall be selected by resolution of each of the governing bodies of those taxing
187 agencies within 30 days after the notice provided in Subsection 17A-2-1256(3).

188 (b) If the project is located within a city or town, a quorum of a taxing agency committee
189 consists of five members. If the project is not located within a city or town, a quorum consists of
190 four members.

191 (c) A taxing agency committee formed in accordance with this section has the authority
192 to:

193 (i) represent all taxing entities in a project area and cast votes that will be binding on the
194 governing boards of all taxing entities in a project area;

195 (ii) negotiate with the agency concerning the redevelopment plan;

196 (iii) approve or disapprove project area budgets under Subsection (3); and

197 (iv) approve an exception to the limits on the value and size of project areas imposed by
198 Section 17A-2-1210, or the time and amount of tax increment financing under this section.

199 (3) (a)(i) If the project area budget for a redevelopment plan adopted before May 1, 2000,
200 does not allocate 20% of the tax increment for housing as provided in Subsection
201 17A-2-1264(2)(a):

202 (A) an agency may not collect any tax increment for a project area until after the agency
203 obtains the majority consent of a quorum of the taxing agency committee for the project area
204 budget; and

205 (B) a project area budget adopted under Subsection (3)(a)(i)(A) may be amended if the
206 agency obtains the majority consent of a quorum of the taxing agency committee.

207 (ii) If the project area budget for a redevelopment plan adopted before May 1, 2000
208 allocates 20% of the tax increment for housing as provided in Subsection 17A-2-1264(2)(a):

209 (A) an agency may not collect tax increment from all or part of a project area until after:

210 (I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part
211 7, Olene Walker Housing Trust Fund, has certified the project area budget as complying with the
212 requirements of Section 17A-2-1264; and

213 (II) the agency's governing body has approved and adopted the project area budget by a

214 two-thirds vote; and

215 (B) a project area budget adopted under Subsection (3)(a)(ii)(A) may be amended if:

216 (I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part
217 7, Olene Walker Housing Trust Fund, certifies the amendment as complying with the requirements
218 of Section 17A-2-1264; and

219 (II) the agency's governing body approves and adopts the amendment by a two-thirds vote.

220 (b) Within 30 days after the approval and adoption of a project area budget, each agency
221 shall file a copy of the budget with the county auditor, the State Tax Commission, the state auditor,
222 and each property taxing entity affected by the agency's collection of tax increment under the
223 project area budget.

224 (c) (i) Beginning on January 1, 1997, before an amendment to a project area budget is
225 approved, the agency shall advertise and hold one public hearing on the proposed change in the
226 project area budget.

227 (ii) The public hearing under Subsection (3)(c)(i) shall be conducted according to the
228 procedures and requirements of Subsection 17A-2-1222(2), except that if the amended budget
229 allocates a greater proportion of tax increment to a project area than was allocated to the project
230 area under the previous budget, the advertisement shall state the percentage allocated under the
231 previous budget and the percentage allocated under the amended budget.

232 (d) If an amendment is not approved, the agency shall continue to operate under the
233 previously approved, unamended project area budget.

234 (4) (a) An agency may collect tax increment from all or a part of a project area. The tax
235 increment shall be paid to the agency in the same manner and at the same time as payments of
236 taxes to other taxing agencies to pay the principal of and interest on loans, moneys advanced to,
237 or indebtedness, whether funded, refunded, assumed, or otherwise, to finance or refinance, in
238 whole or in part, the redevelopment or economic development project and the housing projects and
239 programs under Sections 17A-2-1263 and 17A-2-1264.

240 (b) (i) An agency may elect to be paid:

241 (A) if 20% of the project area budget is not allocated for housing as provided in Subsection
242 17A-2-1264(2)(a):

243 (I) 100% of annual tax increment for 12 years; or

244 (II) 75% of annual tax increment for 20 years; or

245 (B) if 20% of the project area budget is allocated for housing as provided in Subsection
246 17A-2-1264(2)(a):

247 (I) 100% of annual tax increment for 15 years; or

248 (II) 75% of annual tax increment for 24 years.

249 (ii) Tax increment paid to an agency under this Subsection (4)(b) shall be paid for the
250 applicable length of time beginning the first tax year the agency accepts tax increment from a
251 project area.

252 (c) An agency may receive a greater percentage of tax increment or receive tax increment
253 for a longer period of time than that specified in Subsection (4)(b) if the agency obtains:

254 (i) for a redevelopment plan adopted before May 1, 2000, the majority consent of the
255 taxing agency committee; or

256 (ii) for a redevelopment plan adopted on or after May 1, 2000, the consent of the
257 legislative body of the community that created the agency.

258 (5) (a) (i) The redevelopment plan shall provide that the portion of the taxes, if any, due
259 to an increase in the tax rate by a taxing agency after the date the project area budget is approved
260 [~~by the taxing agency committee~~] may not be allocated to and when collected paid into a special
261 fund of the redevelopment agency according to the provisions of Subsection (4) unless [~~the taxing~~
262 ~~agency committee approves~~], at the time the project area budget is approved, the inclusion of the
263 increase in the tax rate [~~at the time the project area budget~~] is approved by:

264 (A) for a redevelopment plan adopted before May 1, 2000, the taxing agency committee;

265 or

266 (B) for a redevelopment plan adopted on or after May 1, 2000, the legislative body of the
267 community that created the agency.

268 (ii) If approval of the inclusion of the increase in the tax rate is not obtained, the portion
269 of the taxes attributable to the increase in the rate shall be distributed by the county to the taxing
270 agency imposing the tax rate increase in the same manner as other property taxes.

271 (b) The amount of the tax rate to be used in determining tax increment shall be increased
272 or decreased by the amount of an increase or decrease as a result of:

273 (i) a statute enacted by the Legislature, a judicial decision, or an order from the State Tax
274 Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

275 (ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section

276 59-2-103;

277 (iii) an increase or decrease in the percentage of fair market value, as defined under
278 Section 59-2-102; or

279 (iv) a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i).

280 (c) (i) Notwithstanding the increase or decrease resulting from Subsection (5)(b), the
281 amount of money allocated to, and when collected paid to the agency each year for payment of
282 bonds or other indebtedness may not be less than would have been allocated to and when collected
283 paid to the agency each year if there had been no increase or decrease under Subsection (5)(b).

284 (ii) For a decrease resulting from Subsection (5)(b)(iv), the taxable value for the base year
285 under Subsection 17A-2-1202(2) or 17A-2-1247(2)(a), as the case may be, shall be reduced for any
286 year to the extent necessary, including below zero, to provide an agency with approximately the
287 same amount of money the agency would have received without a reduction in the county's
288 certified tax rate if:

289 (A) in that year there is a decrease in the certified tax rate under Subsection 59-2-924(2)(c)
290 or (2)(d)(i);

291 (B) the amount of the decrease is more than 20% of the county's certified tax rate of the
292 previous year; and

293 (C) the decrease results in a reduction of the amount to be paid to the agency under Section
294 17A-2-1247 or 17A-2-1247.5.

295 (6) (a) For redevelopment plans first adopted before May 4, 1993, beginning January 1,
296 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project
297 under Section 59-2-906.1 which are not pledged to support bond indebtedness and other
298 contractual obligations are exempt from the provisions of Subsection (4).

299 (b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994,
300 all of the taxes levied and collected upon the taxable property in the redevelopment project under
301 Section 59-2-906.1 are exempt from the provisions of Subsection (4).

302 (7) (a) In addition to the amounts and periods that an agency may elect to be paid tax
303 increment under Subsection (4)(b), an agency may elect to be paid 100% of annual tax increment
304 for an additional period, as provided in Subsection (7)(b), beyond those periods provided under
305 Subsection (4)(b), without the approval of the taxing agency committee or the legislative body of
306 the community that created the agency, if the tax increment funding for the additional period is

307 used:

308 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
309 that would directly benefit from an interchange on I-15, to pay some or all of the cost of the
310 installation, construction, or reconstruction of:

311 (A) an interchange on I-15; or

312 (B) frontage and other roads connecting to the interchange, as determined by the
313 Department of Transportation created under Section 72-1-201 and the Transportation Commission
314 created under Section 72-1-301; or

315 (ii) for an agency in a city of the first class, to pay some or all of the cost of the land for
316 and installation and construction of a recreational facility, as defined in Subsection 59-12-702(3),
317 or a cultural facility, including parking and infrastructure improvements related to the recreational
318 or cultural facility.

319 (b) The additional period for which an agency may be paid 100% of annual tax increment
320 under Subsection (7)(a) is an additional:

321 (i) 13 years, for an agency that initially elected to be paid under Subsection (4)(b)(i)(A)(I);

322 (ii) five years, for an agency that initially elected to be paid under Subsection
323 (4)(b)(i)(A)(II);

324 (iii) ten years, for an agency that initially elected to be paid under Subsection
325 (4)(b)(i)(B)(I); and

326 (iv) one year, for an agency that initially elected to be paid under Subsection
327 (4)(b)(i)(B)(II).

328 (c) This Subsection (7) applies only to an agency established by a city in which:

329 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
330 that would directly benefit from an interchange on I-15, the installation, construction, or
331 reconstruction of an interchange on I-15 or frontage or other roads connecting to the interchange
332 has begun on or before June 30, 2000; and

333 (ii) for an agency in a city of the first class, the installation or construction of a recreational
334 facility, as defined in Subsection 59-12-702(3), or a cultural facility has begun on or before June
335 30, 2000.

336 (d) Notwithstanding any other provision of this Subsection (7), a school district may not
337 receive less tax increment because of application of the other provisions of this Subsection (7) than

338 it would have received without those provisions.

Legislative Review Note
as of 1-20-00 4:03 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel